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October 12, 2005

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: ***EX PARTE NOTICE*** – In the Matter of Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004;
Implementation of Section 340 of the Communications Act – MB
Docket No.05-49

Dear Ms. Dortch:

On behalf of Capitol Broadcasting Company, Inc. (CBC), I met with Jordan Goldstein of Commissioner Michael J. Copps office regarding the above-referenced docket. During the meeting, I emphasized the following four points:

- CBC fully supports the definition of “community” advocated in the Joint Comments of the National Association of Broadcasters and of the ABC, CBS, FBC, and NBC Television Affiliate Associations (Joint Commenters). Other commenters’ zip code definition expands the definition of “significantly viewed” beyond the original Congressional intent of “significantly viewed” and to the detriment of local broadcasters, particularly in local markets, such as Raleigh-Durham, where numerous counties border other Nielsen Designated Market Areas (DMAs) affecting our exclusive programming rights in thousands of TV households, not included on the Commission’s significantly viewed list.
- CBC believes that Section 340(b)(2)(B) prohibits satellite carriers from discriminating against a local broadcaster. Congress included the “equivalent bandwidth” and “entire bandwidth” concepts to ensure this. Congress did not mandate carriage of significantly viewed stations, but imposed requirements to ensure that the content marketplace continue to function.



- Most importantly, Section 340(B)(1) explicitly requires that a satellite subscriber “receive” the local affiliate before receiving an out-of-market significantly viewed signal affiliated with the same network. The statute contemplated no exception to this rule based on failed retransmission negotiations between the local affiliate and the satellite provider.

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- Further, CBC agrees with the Joint Commenters Reply Comments regarding miscellaneous issues raised by EchoStar. A local market satellite package is a prerequisite to the importation of significantly viewed stations into that market. Any other interpretation is harmful to the public policy goal of delivery of a local-to-local package into all 210 local DMAs.

If there are questions relating to this filing, please contact the undersigned.

Best regards,

/s/ Dianne Smith

Dianne Smith
Special Projects Counsel

cc. Jordan Goldstein